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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.      | CONFIRMATION NO.       |
|--|-------------|----------------------|--------------------------|------------------------|
| 10/088,971   | 03/25/2002  | Tatsuji Nagaoka      | 9683/107                 | 6639                   |
| 27879 7590 07/06/2007<br>INDIANAPOLIS OFFICE 27879<br>BRINKS HOFER GILSON & LIONE<br>ONE INDIANA SQUARE, SUITE 1600<br>INDIANAPOLIS, IN 46204-2033 |             |                      | EXAMINER<br>PENG, FRED H |                        |
|  |             |                      | ART UNIT<br>2623         | PAPER NUMBER           |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/088,971

Applicant(s)

NAGAOKA ET AL.

Examiner

Fred Peng

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 26 April 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 18-42 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 18-42 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Response to Arguments***

1. Applicant's arguments with respect to claims 18-42 have been considered but are moot in view of the new ground(s) of rejection.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 18-19, 21-22, 24-33, 35-36 and 38-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kamada et al (US 7,039,928 B2) in view of Harada et al (US 5,721,583).

Regarding Claim 18, Kamada discloses an audience rating calculation system (FIG.1) that includes a receiver (FIG.1 other than remote control 102, antenna 120, display 122 and speaker 123), at least one mobile station (102) and a server (connected to Modem 118 via internet), the system comprising:

a memory included in the at least one mobile station, the memory configured to store user identification information of a user of the mobile station (Col 12 lines 7-12);

a first communication unit included in the at least one mobile station, the first communication unit configured to transmit to the receiver a request for a program, the request comprising the stored user identification information (FIG.8, Col 12 lines 15-18);

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a second communication unit included in the receiver, the second communication unit configured to receive from the at least one mobile station the request for the program (FIG.1, -103, -104; Col 5 lines 20-26);

a receiving unit included in the receiver, the receiving unit configured to receive from a broadcast station the requested program (FIG.1, -121; Col 5 lines 12-15);

a first storage unit included in the receiver, the first storage unit configured to store a viewing history that includes identification information of the requested program, the received user identification information, and a viewing time duration of the requested program (FIG.8; Col 12 lines 15-18; Col 7 lines 1-10);

a third communication unit included in the receiver, the third communication unit configured to transmit the viewing history (FIG.1, 118; Col 10 lines 25-30);

Kamada further discloses a server to include a second storage unit to store the user identification information; a fourth communication unit to receive the viewing history from the receiver; and a calculation unit to calculate an audience rating based on the received viewing history (Col 11 lines 4-17).

Kamada is silent about storing user attribute information and calculating attribute-specific audience rating.

In an analogous art, Harada discloses storing user attribute information and calculating attribute-specific audience rating (FIG.8).

It would have been obvious to one of ordinary skill in the art to modify the system of Kamada to include storing user attribute information and calculating attribute-specific audience rating as taught by Harada so rating related to more specific group of audience can be identified like age.

Regarding Claim 19, Kamada discloses the calculation unit is further configured to retrieve user identification information in response to a request for an audience rating corresponding viewing history that includes the associated user identification information and

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calculate the audience rating (Col 3 lines 42-49; using the rating data requires access and retrieving viewer's viewing data).

Kamada is silent about attribute-specific audience rating data.

In an analogous art, Harada discloses attribute-specific audience rating (FIG.8).

It would have been obvious to one of ordinary skill in the art to modify the system of Kamada to include attribute-specific audience rating data as taught by Harada so rating related to more specific group of audience can be identified like age.

Regarding Claim 21, Kamada discloses the calculation unit responds to request for audience rating data including an program identification is configured to access the desired user id and obtain viewing history information (Col 3 lines 42-49; rating is used by the audience rating searcher suggesting response to request for audience rating data).

Kamada is silent about attribute-specific audience rating data.

In an analogous art, Harada discloses attribute-specific audience rating (FIG.8).

It would have been obvious to one of ordinary skill in the art to modify the system of Kamada to include attribute-specific audience rating data as taught by Harada so rating related to more specific group of audience can be identified like age.

Regarding Claims 22 and 39, Harada further discloses attribute includes age, gender and interests of a user (FIG.4).

Regarding Claim 24, Kamada further discloses mobile communication network including plurality of base stations and a switching station (FIG.1, -118; mobile communication network via internet inherently including plurality of base stations and a switching station).

Regarding Claims 25 and 40, Kamada further discloses request to view a channel upon which the program is present with one mobile station (Col 5 lines 12-15, 20-24).

Regarding Claims 26 and 27, Kamada further discloses requested program from the broadcast station via a broadcast radio wave and a network (FIG.1, -120).

Regarding Claim 28, Kamada is silent about confirming the request is from an authorized user by comparison of the stored user ID and pre-stored user ID.

Harada discloses confirming the request is from an authorized user by comparison of the stored user ID and pre-stored user ID (Col 27 lines 28-40).

It would have been obvious to one of ordinary skill in the art to modify the system of Kamada to include confirming the request is from an authorized user by comparison of the stored user ID and pre-stored user ID as taught by Harada to filter out the unauthorized users.

Regarding Claim 29, Harada further discloses providing various services on demand from user (Col 5 lines 53-60) and the server transmit the attribute-specific rating to at least one mobile station (Col 9 lines 59-61).

It would have been obvious to one of ordinary skill in the art to modify the system of Kamada to include providing attribute-specific rating to at least one mobile station on demand as taught by Harada to provide user-specific attribute rating data based on user's needs.

Regarding Claim 30, Kamada discloses a mobile station comprising:

a control unit (FIG.1, -102);

a wireless communication unit coupled with the control unit, the wireless communication unit configured to wirelessly communicate voice communication or data communication over a mobile communication network comprising a plurality of base stations and a switching center (Col 5 lines 30-39; modem dial-up connection to the service provider including a plurality of base stations and a switching center), the voice communication or data communication comprising communication of a mobile station identifier (Col 12 lines 7-12);

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a transmitting unit coupled with the control unit, the transmitting unit configured to communicate a control signal with a predetermined signal format that comprises an instruction command, a detailed instruction, and the mobile station identifier (Col 5 lines 20-39; Col 12 lines 7-12);

the instruction command comprising one of a channel selection command of a broadcast program to be viewed (Col 5 lines 12-15, 20-26), or a recording reservation command to record the broadcast program at a future time, so that an audience rating is determinable in accordance with the control signal (FIG.8); and

a user interface unit in communication with the control unit, the control unit configured to direct voice communication with the wireless communication unit, or direct control signal communication with the transmitting unit in accordance with a respective input signal received with the control unit from the user interface (Col 5 lines 30-39).

Kamada is silent about attribute-specific audience rating data.

In an analogous art, Harada discloses attribute-specific audience rating (FIG.8).

It would have been obvious to one of ordinary skill in the art to modify the system of Kamada to include attribute-specific audience rating data as taught by Harada so rating related to more specific group of audience can be identified like age.

Regarding Claim 31, Kamada discloses a receiver configured to receive the control signal communicated by the transmitting unit (FIG.1, 102, 103).

Kamada is silent about authenticate the mobile station based on the mobile station ID to receive and interpret the broadcast program.

Harada discloses authenticating the mobile station based on the mobile station ID to receive and interpret the broadcast program (Col 27 lines 28-40).

It would have been obvious to one of ordinary skill in the art to modify the system of Kamada to include authenticating the mobile station based on the mobile station ID to receive and interpret the broadcast program as taught by Harada to filter out the unauthorized users.

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Regarding Claim 32, Kamada further discloses the receiver is further configured to also receive the control signal communicated as data by the wireless communication unit via the mobile communication network (FIG.1, remote control 102 access internet via the mobile communication network 103, 118).

Regarding Claim 33, Kamada is silent about authenticating the mobile station by comparison of the mobile station identifier with information pre-stored in the identifier storage unit.

Harada discloses authenticating the mobile station by comparison of the mobile station identifier with information pre-stored in the identifier storage unit (Col 27 lines 28-40).

It would have been obvious to one of ordinary skill in the art to modify the system of Kamada to include authenticating the mobile station by comparison of the mobile station identifier with information pre-stored in the identifier storage unit as taught by Harada to filter out the unauthorized users.

Regarding Claims 35 and 38, Kamada discloses the server computer is configured to store a plurality of users in association with a respective mobile station identifier, the server computer configured to calculate the attribute specific audience rating based on identification of users, and the respective user's viewing history that is identified from the mobile station identifier, and included in the user's viewing history.

Kamada is silent about attribute-specific audience rating data.

In an analogous art, Harada discloses attribute-specific audience rating (FIG.8).

It would have been obvious to one of ordinary skill in the art to modify the system of Kamada to include attribute-specific audience rating data as taught by Harada so rating related to more specific group of audience can be identified like age.

Regarding Claim 36, Kamada discloses a receiver comprising:



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a broadcast wave receiving unit configured to receive video data and audio data of a broadcast program (FIG.1, 121),

a monitor control unit configured to drive a monitor to display the received video data and audio data (FIG.1, 122);

a control signal receiving unit (FIG.1, 103, 104) configured to receive, from a mobile station, a control signal that includes an instruction command and a mobile station identifier, the instruction command comprising one of a channel selection command of the broadcast program to be viewed (Col 5 lines 20-26), or a recording reservation command to record the broadcast program at a future time;

a communication unit configured to transmit over a network, for receipt by an audience rating server, a user's viewing history that includes identification of the broadcast program and the mobile station identifier so that an attribute specific audience rating is determinable with the audience rating server in accordance with the control signal identification of the broadcast program and the mobile station identifier (FIG.8; Col 11 lines 4-17; Col 12 lines 14-18).

Kamada is silent about a mobile station identifier storage unit configured to pre-store a plurality of mobile station identifiers of a respective plurality of mobile stations of respective users that are authorized to control the receiver; and a signal interpretation unit configured to confirm that the mobile station identifier included in the control signal matches one of the mobile station identifiers stored in the mobile station identifier storage unit.

Harada discloses authenticating the mobile station by comparison of the mobile station identifier with information pre-stored in the identifier storage unit (Col 27 lines 28-40).

It would have been obvious to one of ordinary skill in the art to modify the system of Kamada to include confirming the request is from an authorized user by comparison of the stored user ID and pre-stored user ID as taught by Harada to filter out the unauthorized users.

Regarding Claim 41, Kamada discloses the control signal comprises a predetermined signal format that comprises the instruction command, a detailed instruction, and the mobile

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station identifier, the detailed instruction comprising a channel identifier of a desired broadcast program (Col 12 lines 5-18, Col 5 lines 12-26).

Regarding Claim 42, Kamada discloses the mobile station is configured to direct voice communication with the wireless communication unit, or direct control signal communication with the transmitting unit in accordance with a respective input signal received with a user interface included in said mobile station (Col 5 lines 20-26).

4. Claims 20, 34 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kamada et al (US 7,039,928 B2) and Harada et al (US 5,721,583) as applied to claims 19, 30, 31 and 36 above, and further in view of Howe et al (US 2007/0107035 A1).

Regarding Claim 20, Kamada discloses receiving and storage of the viewing history at the server and are deleted from user apparatus after transmission (Col 10 lines 53-57).

Kamada is silent about completion notification to indicate successful receipt and configured to delete the viewing history.

In an analogous art, Howe discloses completion notification to indicate successful receipt (Para 168).

It would have been obvious to one of ordinary skill in the art to modify the system of Kamada to include completion notification to indicate successful receipt as taught by Howe to improve the transmission reliability with confirmation mechanism.

Regarding Claim 34, Kamada discloses the receiver comprises a viewing history storage unit configured to store a user's viewing history that includes the mobile station identifier (FIG.8; Col 12 lines 5-18), and the audience rating calculation system further comprises a server computer in communication with the receiver, the receiver configured to transmit the user's

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viewing history for storage in the server computer (Col 11 lines 4-17), and the receiver configured to delete the user's viewing history (Col 10 lines 53-57).

Kamada is silent about deleting the user's viewing history in response to a confirmation of receipt of the user's viewing history from the server.

In an analogous art, Howe discloses completion notification to indicate successful receipt (Para 168).

It would have been obvious to one of ordinary skill in the art to modify the system of Kamada to include completion notification to indicate successful receipt as taught by Howe to improve the transmission reliability with confirmation mechanism.

Regarding Claim 37, Kamada discloses the receiver comprises a viewing history storage unit configured to store a user's viewing history (FIG.8), and the receiver configured to delete the user's viewing history after transmission (Col 10 lines 53-57).

Kamada is silent about deleting the user's viewing history in response to a confirmation of receipt of the user's viewing history from the server.

In an analogous art, Howe discloses completion notification to indicate successful receipt (Para 168).

It would have been obvious to one of ordinary skill in the art to modify the system of Kamada to include completion notification to indicate successful receipt as taught by Howe to improve the transmission reliability with confirmation mechanism.

5. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kamada et al (US 7,039,928 B2) and Harada et al (US 5,721,583) as applied to claim 19 above, and further in view of Nakano et al (US 5,901,366).

Regarding Claim 23, Kamada fails to disclose a mobile phone.

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In an analogous art, Nakano discloses a mobile phone (FIG.15, -5; FIG.17, S1, S10-S12).

It would have been obvious to one of ordinary skill in the art to modify the system of Kamada to include a mobile phone as taught by Nakano so TV programming will not be interrupted while receiving a phone call.

### ***Conclusion***

1. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fred Peng whose telephone number is (571) 270-1147. The examiner can normally be reached on Monday-Friday 09:00-18:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on (571) 272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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